

Nuclear Regulatory Commission

§2.319

or for other purposes two or more proceedings, or may hold joint hearings with interested States and/or other Federal agencies on matters of concurrent jurisdiction, if it is found that the action will be conducive to the proper dispatch of its business and to the ends of justice and will be conducted in accordance with the other provisions of this subpart.

§2.318 Commencement and termination of jurisdiction of presiding officer.

(a) Unless the Commission orders otherwise, the jurisdiction of the presiding officer designated to conduct a hearing over the proceeding, including motions and procedural matters, commences when the proceeding commences. If a presiding officer has not been designated, the Chief Administrative Judge has jurisdiction or, if he or she is unavailable, another administrative judge or administrative law judge has jurisdiction. A proceeding commences when a notice of hearing or a notice of proposed action under §2.105 is issued. When a notice of hearing provides that the presiding officer is to be an administrative judge or an administrative law judge, the Chief Administrative Judge will designate by order the administrative judge or administrative law judge, as appropriate, who is to preside. The presiding officer's jurisdiction in each proceeding terminates when the period within which the Commission may direct that the record be certified to it for final decision expires, when the Commission renders a final decision, or when the presiding officer withdraws from the case upon considering himself or herself disqualified, whichever is earliest.

(b) The Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or the Director, Office of Nuclear Material Safety and Safeguards, as appropriate, may issue an order and take any otherwise proper administrative action with respect to a licensee who is a party to a pending proceeding. Any order related to the subject matter of the pending proceeding may be modified by the pre-

siding officer as appropriate for the purpose of the proceeding.

[69 FR 2236, Jan. 14, 2004, as amended at 73 FR 5716, Jan. 31, 2008; 77 FR 46592, Aug. 3, 2012]

§2.319 Power of the presiding officer.

A presiding officer has the duty to conduct a fair and impartial hearing according to law, to take appropriate action to control the prehearing and hearing process, to avoid delay and to maintain order. The presiding officer has all the powers necessary to those ends, including the powers to:

(a) Administer oaths and affirmations;

(b) Issue subpoenas authorized by law, including subpoenas requested by a participant for the attendance and testimony of witnesses or the production of evidence upon the requestor's showing of general relevance and reasonable scope of the evidence sought;

(c) Consolidate parties and proceedings in accordance with §§2.316 and 2.317 and/or direct that common interests be represented by a single spokesperson;

(d) Rule on offers of proof and receive evidence. In proceedings under this part, strict rules of evidence do not apply to written submissions. However, the presiding officer may, on motion or on the presiding officer's own initiative, strike any portion of a written presentation or a response to a written question that is irrelevant, immaterial, unreliable, duplicative or cumulative.

(e) Restrict irrelevant, immaterial, unreliable, duplicative or cumulative evidence and/or arguments;

(f) Order depositions to be taken as appropriate;

(g) Regulate the course of the hearing and the conduct of participants;

(h) Dispose of procedural requests or similar matters;

(i) Examine witnesses;

(j) Hold conferences before or during the hearing for settlement, simplification of contentions, or any other proper purpose;

(k) Set reasonable schedules for the conduct of the proceeding and take actions reasonably calculated to maintain overall schedules;

(l) Refer rulings to the Commission under §2.323(f)(1), or certify questions